

UNITED STATES DISTRICT COURT

Eastern District of New York

UNITED STATES OF AMERICA
- v -
Jeffrey Miller

Presiding Judge: **Joanna Seybert, Senior U.S.D.J.**
Case No(s).: **18-cr-0614-JS-ARL**
Date: **3/22/2023**
Start Time: **3:11 PM** Total Time: **25 mins.**

MINUTE ENTRY FOR A CRIMINAL PROCEEDING

SEALED PROCEEDING: ☐ Yes ☒ No

I. APPEARANCES:

Defendant (# 3): **Jeffrey Miller**

☒ Present ☐ Not Present ☐ In Custody ☒ On Bond ☐ Surrendered

Defendant (# ____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Defendant (# ____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Defendant (# ____): _____

☐ Present ☐ Not Present ☐ In Custody ☐ On Bond ☐ Surrendered

Government: **Charles Rose**

Pretrial/Probation: _____

Interpreter: _____ Language: _____

☐ See Additional Appearances page.

Counsel: **John Arlia**

☒ Retained ☐ Federal Defender ☐ CJA ☐ _____

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐ _____

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐ _____

Counsel: _____

☐ Retained ☐ Federal Defender ☐ CJA ☐ _____

Court Reporter: **Lisa Schmid**

FTR Time: _____

Courtroom Deputy: **Eric L. Russo**

II. PROCEEDINGS HELD:

- | | | | |
|---|--|--|--|
| <input checked="" type="checkbox"/> In-Person | <input type="checkbox"/> Arraignment | <input type="checkbox"/> Evidentiary Hearing | <input type="checkbox"/> Plea Hearing |
| <input type="checkbox"/> By Telephone | <input type="checkbox"/> Bond Hearing | <input type="checkbox"/> Fatco Hearing | <input checked="" type="checkbox"/> Sentencing/Re-Sentencing |
| | <input type="checkbox"/> Curcio Hearing | <input type="checkbox"/> Initial Appearance | <input type="checkbox"/> Status/Pre-Trial Conference |
| | <input type="checkbox"/> Detention Hearing | <input type="checkbox"/> Motion Hearing | |

☐ Other Proceeding: _____

III. PROCEEDINGS SUMMARY:

- ☐ Arraignment held regarding _____.
- ☐ Defendant _____ initial appearance before this Court.
 - ☐ Defendant _____ waived Indictment. Waiver(s) executed.
 - ☐ Defendant _____ waived the public reading of the charging instrument.
 - ☐ The Court read the charges outlined in the charging instrument and the defendant(s) acknowledged the charges.
 - ☐ Defendant _____ entered a plea of **NOT GUILTY** as to all counts of the charging instrument.
 - ☐ The Government was advised and acknowledged its obligation under **Rule 5(f) of the F.R.Cr.P.** and the **Due Process Protections Act**. The Court will issue a written order with further details.
 - ☐ Defendant _____ waived Speedy Trial from _____. (Excludable Code: ____)
 - ☐ Defendant _____ did not waive Speedy Trial.
 - ☐ Speedy Trial for Defendant _____ waived from _____ by order of the Court. (Excludable Code: ____)
 - ☐ The Court deems (or previously deemed) this case complex.
 - ☐ Speedy Trial for Defendant _____ is waived pursuant to **18 U.S.C. § 3161(h)(7)(B)(ii)**. (Excludable Code: **XT**)
 - ☐ See Section V of this minute entry (page 5) for additional details and/or rulings.

- ☐ Curcio Hearing held.
- ☐ The parties presented their oral arguments to the Court.
 - ☐ The defendant was informed of the potential dangers arising from any conflicts of interest with current defense counsel.
 - ☐ The defendant acknowledged and waived any potential conflicts of interest and wishes to proceed with current defense counsel.
 - ☐ The defendant wishes to relieve current defense counsel and:
 - ☐ retain new counsel.
 - ☐ Defendant must retain new counsel by _____; or within _____ of this hearing.
 - ☐ have new counsel appointed by the Court.
 - ☐ The defendant completed and filed a CJA 23 Financial Affidavit for the Court's review.
 - ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
 - ☐ See Section V of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Status/Pre-Trial Conference held regarding _____.
- ☐ This was an initial appearance before this Court by Defendant _____.
 - ☐ The parties advised the Court of the status of the case.
 - ☐ Defendant _____ waived Speedy Trial from _____. (*Excludable Code: _____*)
 - ☐ Defendant _____ did not waive Speedy Trial.
 - ☐ Speedy Trial for Defendant _____ waived from _____ by order of the Court. (*Excludable Code: _____*)
 - ☐ The Court deems (or previously deemed) this case complex.
 - ☐ Speedy Trial for Defendant _____ is waived pursuant to 18 U.S.C. § 3161(h)(7)(B)(ii). (*Excludable Code: XT*)
 - ☐ The following briefing schedule was set:
 - ☐ _____ due by: _____.
 - ☐ _____ due by: _____.
 - ☐ _____ due by: _____.
 - ☐ _____ due by: _____.
 - ☐ The parties were directed to file a proposed briefing schedule for this Court's approval on or before _____.
 - ☐ The Court deems (or previously deemed) this case trial ready.
 - ☐ The Court set the following pre-trial submission schedule:
 - ☐ All 3500 material and 404(b) evidence shall be turned over by: _____.
 - ☐ Motions in Limine shall be filed by: _____.
 - ☐ Oppositions to Motions in Limine due by: _____.
 - ☐ Replies to Motions in Limine due by: _____.
 - ☐ Proposed Voir Dire questions and case summary due by: _____.
 - ☐ Proposed exhibits and witness list due by: _____.
 - ☐ Requests to Charge and proposed Verdict Sheets: _____.
 - ☐ The Court will enter a separate order outlining the pre-trial submission schedule.
 - ☐ The parties are to ensure courtesy copies of their submissions (outlined above) are promptly provided to Chambers. (**Note:** Attaching the documents to an e-mail does not satisfy this directive.)
 - ☐ See Section V of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Evidentiary/Motion Hearing held regarding _____.
- ☐ The parties presented their oral arguments to the Court.
 - ☐ Witness(es) were called ☐ for the Government; ☐ for the defendant(s).
 - ☐ Exhibits were entered into evidence.
 - ☐ The Court made the following ruling(s): ☐ Motion granted; ☐ Motion denied; ☐ Motion granted, in part, and denied, in part.
 - ☐ _____
- ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
- ☐ See Section V of this minute entry (*page 5*) for additional details and/or rulings.

- ☐ Plea Hearing held as to count(s) _____.
- ☐ The defendant was informed of the constitutional rights being waived and any potential consequences of pleading guilty.
 - ☐ The defendant withdrew previously entered not guilty plea and entered a plea of GUILTY to the above referenced count(s).
 - ☐ Court found that there is a factual basis for the plea and accepted the defendant's plea of guilty.
 - ☐ An Order of Forfeiture was executed.
 - ☐ The Conviction Notification Form was executed and sent to the U.S. Probation Department.
 - ☐ The parties waived the preparation of the Presentence Investigation Report.
 - ☐ See Section V of this minute entry (*page 5*) for additional details and/or rulings.
- ☐ Fatico Hearing held.
- ☐ The parties presented their oral arguments to the Court.
 - ☐ Witness(es) were called ☐ for the Government; ☐ for the defendant(s).
 - ☐ Exhibits were entered into evidence.
 - ☐ The Court's decision ☐ was entered on the record; ☐ will be entered under a separate order; ☐ was reserved.
 - ☐ See Section V of this minute entry (*page 5*) for additional details and/or rulings.
- ☒ Sentencing/Re-Sentencing held as to count(s) one (1) and two (2) of the four (4) count Indictment.
- ☒ The parties advised the Court that there are no objections to the Presentence Investigation Report.
 - ☐ The parties outlined their objections to the Presentence Investigation Report on the record.
 - ☒ The Court adopted the Presentence Investigation Report without change.
 - ☐ The Court outlined changes to the Presentence Investigation Report on the record.
 - ☒ Statements were heard from ☒ defense counsel; ☒ the defendant; ☒ the Government; ☐ the victim(s); ☐ others.
 - ☐ The defendant was sentenced to IMPRISONMENT for a total term of _____.
 - ☐ Upon release, the defendant shall be on SUPERVISED RELEASE for a total term of _____.
 - ☐ The defendant shall comply with the standard conditions of supervision (to be outlined in the judgment).
 - ☐ The defendant shall comply with the special conditions of supervision ordered by the Court (to be outlined in the judgment).
 - ☐ The Court did not impose a term of Supervised Release.
 - ☒ The defendant was sentenced to PROBATION for a total term of **two (2) years**.
 - ☒ The defendant shall comply with the standard conditions of supervision (to be outlined in the judgment).
 - ☒ The defendant shall comply with the special conditions of supervision ordered by the Court (to be outlined in the judgment).
 - ☒ The defendant must pay the following criminal monetary penalties:
 - ☐ RESTITUTION in the amount of \$ _____.
 - ☐ An Order of Restitution was executed.
 - ☐ A FINE in the amount of \$ _____.
 - ☒ A SPECIAL ASSESSMENT fine in the amount of \$ **200.00**.
 - ☐ An AVAA ASSESSMENT fine in the amount of \$ _____.
 - ☐ A JVTA ASSESSMENT fine in the amount of \$ _____.
 - ☐ The interest requirement on any of the criminal monetary penalties:
 - ☐ was ordered on the amounts of more than \$2,500.00.
 - ☐ was modified, as stated on the record.
 - ☐ was waived/not ordered/not applicable.
 - ☐ Restitution ☐ was not ordered or not applicable; ☐ was paid in full prior to sentencing.
 - ☒ A fine and/or other assessment ☒ was not ordered or not applicable; ☐ was paid in full prior to sentencing.
 - ☒ The determination of Restitution and/or a fine was deferred pending further proceedings or by motion to the Court.
 - ☐ All other conditions shall remain in effect as previously ordered and outlined in the judgment(s) dated _____.
 - ☒ The Order of Forfeiture dated 3/12/2019 was adopted as the Final Order of Forfeiture.
 - ☐ A Final Order of Forfeiture was executed.
 - ☒ The defendant's right to appeal the Court's sentence
 - ☒ was waived pursuant to the Plea Agreement.
 - ☐ was not waived and the defendant can file an appeal within **fourteen (14) days** of the date the judgment is entered.
 - ☒ All open counts in the charging instrument(s) were dismissed on the motion of the United States.
 - ☒ See Section V of this minute entry (*page 5*) for additional details and/or rulings.

IV. RULINGS MADE REGARDING DEFENDANT RELEASE STATUS:

- ☐ Bond Hearing/Detention Hearing held.
- ☐ Defendant _____ did not present a bond application to the Court.
 - ☐ An Order of Detention was executed as to Defendant _____.
 - ☐ An Order Scheduling a Detention Hearing was executed as to Defendant _____.
 - ☐ The bond application/modification was granted as to Defendant _____.
 - ☐ An Order Setting Conditions of Release and Bond was executed as to Defendant _____.
 - ☐ The conditions of release were modified as stated on the record as to Defendant _____.
 - ☐ An amended Order Setting Conditions of Release and Bond was executed as to Defendant _____.
 - ☐ The bond application/modification was denied as to Defendant _____.
 - ☐ An Order of Detention was executed as to Defendant _____.
 - ☐ The Government moved for immediate detention of Defendant _____.
 - ☐ The motion was ☐ granted; ☐ denied; ☐ granted, in part, and denied, in part.
 - ☐ An Arrest Warrant was executed as to Defendant _____.
 - ☐ An Order of Detention was executed as to Defendant _____.
 - ☐ An amended Order Setting Conditions of Release and Bond was executed as to Defendant _____.
 - ☐ The decision regarding the bond or detention application was reserved.
 - ☐ An Order Scheduling a Detention Hearing was executed as to Defendant _____.
 - ☐ A temporary Order Setting Conditions of Release and Bond was executed as to Defendant _____.
 - ☐ See Section V of this minute entry (page 5) for additional details and/or rulings.

For a defendant currently IN-CUSTODY:

- ☐ Defendant _____ remain(s) in custody.
- ☐ The following order(s) was/were executed and shall be forwarded to the U.S. Marshals Service and/or the Federal Bureau of Prisons:
- ☐ A Medical Evaluation Order as to Defendant _____.
 - ☐ A Competency Order as to Defendant _____.
 - ☐ A Force Order as to Defendant _____.
- ☐ The defendant, being sentenced to time served (*time in-custody prior to sentencing/re-sentencing*), shall be released, forthwith.
- ☐ A Time Served Order was executed and submitted to the U.S. Marshals Service.
 - ☐ Upon release, the defendant will be under supervision of the U.S. Probation Department until the completion of the ordered term of Supervised Release.
 - ☐ Upon release, the defendant will not serve a term of Supervised Release.

For a defendant currently AT LIBERTY:

- ☐ Defendant _____ remain(s) on bond.
- ☐ The defendant, being sentenced to a term of imprisonment, shall be immediately remanded to the custody of the U.S. Marshals Service and/or the Federal Bureau of Prisons.
- ☐ The defendant, being sentenced to a term of imprisonment, shall surrender for the service of the sentence before **2:00 PM on** _____ at the institution designated by the Federal Bureau of Prisons. The defendant will remain at liberty and under supervision of the Pretrial Services Department until the surrender date.
- ☐ The U.S. Marshals Voluntary Surrender form was executed.
 - ☐ Motions to extend the surrender date must be made at least a **thirty (30) days** prior to the surrender date.
 - ☐ The defendant was advised that there will be no extensions of the surrender date.
- ☒ The defendant, being sentenced to a term of Probation, will remain at liberty and under supervision of the U.S. Probation Department until the completion of the ordered term of Probation.
- ☐ The defendant, being sentenced to time served (*time in-custody prior to being released*), shall remain at liberty and under supervision of the U.S. Probation Department until the completion of the ordered term of Supervised Release.
- ☐ The defendant, being sentenced to time served (*time in-custody prior to being released as well as time under supervision*), shall be released from all conditions of supervision, forthwith.

V. OTHER RULINGS MADE DURING THE PROCEEDINGS:

☐ The record of this proceeding was deemed sealed. Transcripts of this proceeding can be made available to the Court, the defendant(s), defense counsel, and the Government **ONLY**. Any other non-party who wishes to get a copy of the transcripts must file a written request to the Court for consideration.

☒ - The parties are granted leave to file additional briefs regarding Restitution within thirty (30) days of the date of sentencing. Entry of the Judgment will be held in abeyance pending determination of the Restitution amount.

VI. FURTHER PROCEEDINGS SET:

☐ Bond Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Detention Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Curcio Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Status/Pre-Trial Conf.: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Evidentiary Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Motion Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Jury Selection: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Jury Trial: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Plea Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Fatco Hearing: _____ at _____ before Judge _____ (_____), as to Defendant _____.
☐ Sentencing/Re-Sentencing: _____ at _____ before Judge _____ (_____), as to Defendant _____.

☐ Parties are directed to file their sentencing memorandums by _____. Once the memorandums are filed, the parties are to ensure courtesy copies of their submissions are promptly provided to Chambers. (**Note:** Attaching the documents to an e-mail does not satisfy this directive.) If a party chooses to proceed without filing a sentencing memorandum, a letter to the Court advising as such must be filed on said due date, in lieu of the memorandum.

☐ Further instructions regarding the proceeding(s) set:

☐ The Court ordered the proceeding(s) to be held via the Court's teleconferencing system. Parties are directed to dial the following telephone number at the designated time: **877-336-1839, access code 7231185**.

☐

☒ No further proceedings have been set at this time. (**Note:** Further proceedings may have been set previously. Refer to the docket sheet.)